

(4) Although a lien search is not always required for youths who are minors (as defined in State supplements), the County Supervisor may determine that a search is necessary to assure the Government obtains the required security interest.

(b) *Responsibility for obtaining lien searches.* (1) Applicants should obtain and pay for lien searches. FmHA or its successor agency under Public Law 103-354 County Office employees may make lien searches (at no cost to the applicant) in exceptional cases, such as when no other person is available to provide such a service, or when experience has shown that using the service available would lead to an undue delay in closing the loan and the delay would cause undue hardship to the borrower.

(2) The State Director will issue a State supplement setting forth the requirements for lien searches, including the records to be searched and the periods to be covered.

(3) The applicant should be informed of County Clerks, local attorneys or other persons who will conduct lien searches at a reasonable cost. The applicant will select the lien searcher. The cost of a lien search can be paid from the proceeds of loan checks.

§§ 1941.64-1941.66 [Reserved]

§ 1941.67 Additional requirements for perfecting security interests.

If necessary because of provisions in State statutes, leases, land purchase contracts, or real estate mortgages commonly in use, State Directors will issue State supplements which tell how to obtain a subordination agreement, certification of obligation to landlord, disclaimer, and consent and subordination agreement to perfect security interest.

(a) *Form FmHA or its successor agency under Public Law 103-354 441-5, "Subordination Agreement."* This form will be used if a subordination agreement is required by FmHA or its successor agency under Public Law 103-354 on crops, livestock, farm equipment, or other chattels. If Form FmHA or its successor agency under Public Law 103-354 441-5 is not legally sufficient, a form recommended by OGC will be used. The time to be covered by the

subordination agreement generally will be equal to the repayment period of the loan or for the unexpired period of the lease if the borrower is a tenant, but as a minimum will be for the year for which the loan is made.

(b) *Form FmHA or its successor agency under Public Law 103-354 441-17, "Certification of Obligation to Landlord."* This form may be used instead of obtaining a subordination agreement if:

(1) It appears that the applicant is not financially obligated to the landlord except for rent for the lease year and will not incur other obligations to the landlord during that year, and

(2) A State supplement authorizing the use of Form FmHA or its successor agency under Public Law 103-354 441-17 in such cases has been issued.

(c) *Form FmHA or its successor agency under Public Law 103-354 440-26, "Consent and Subordination Agreement."* Unless otherwise provided by a State supplement, this form rather than a severance agreement will be used in UCC States when a security interest is taken in property after it has become a fixture.

(1) If a debt on an item which has already become a fixture is being refinanced, consent and subordination agreements will be signed before releasing loan funds to the creditor. In all other cases in which a security interest is being taken on an item that already has become a fixture, consent and subordination agreements will be signed no later than the time of loan closing.

(2) Consent and subordination agreements will be taken only in those cases in which the fixture is placed on the real estate before the financing statement and security agreement covering the fixture have been executed, or before the financing statement is filed, or before the request for obligation of funds is signed by the loan approving official.

[43 FR 55883, Nov. 29, 1978, as amended at 54 FR 47959, Nov. 20, 1989]

§§ 1941.68-1941.70 [Reserved]

§ 1941.71 Fees.

The borrower will pay all fees for filing or recording financing statements, mortgages, or other legal instruments

and will pay all notary and lien search fees incident to loan transactions. Payment will be made from personal funds or from the proceeds of the loan. Whenever FmHA or its successor agency under Public Law 103–354 employees accept cash to pay for filing or recording fees or for the cost of making a lien search, Form FmHA or its successor agency under Public Law 103–354 440–12, “Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees,” will be executed. FmHA or its successor agency under Public Law 103–354 employees will make it clear to the borrower that any fee so accepted is not received by the Government as a payment on the borrower’s debt, but is accepted only for paying the recording, filing, or lien search fees on behalf of the borrower.

§§ 1941.72–1941.74 [Reserved]

§ 1941.75 Retention and use of security agreements.

Original executed security agreements will not be altered or destroyed, and will remain in the case file when new security agreements are taken. Changes in security property will be noted *only* on the work copy. When an additional security agreement covering all collateral for the debt is taken, the work copy of the previous security agreement may be destroyed.

§§ 1941.76–1941.78 [Reserved]

§ 1941.79 Future advance and after-acquired property clauses.

The future advance and after-acquired property clauses of security agreements will be considered valid in all respects in UCC States unless otherwise provided in a State supplement.

(a) *Future advance clause.* A properly prepared, executed, and filed or recorded FmHA or its successor agency under Public Law 103–354 financing statement and a properly prepared and executed FmHA or its successor agency under Public Law 103–354 security agreement give FmHA or its successor agency under Public Law 103–354 a security interest in the property described. This security interest covers future loans, advances, and expenditures, as well as any other FmHA or its successor agency under Public Law 103–

354 debts evidenced by notes and any advances or expenditures for debts evidenced by such notes. However, when a borrower’s indebtedness is paid in full, a new security agreement must be taken in all cases to secure an initial loan made following the payment in full.

(b) *After-acquired property clause.* After a security interest is acquired in certain property, any property (except fixtures) acquired which is of the same type as that described in the financing statement and security agreement will also serve as security for the debt. The after-acquired property clause in the security agreement will encumber crops grown on the land described in the security agreement and financing statement, provided the crops are planted or otherwise become growing crops within 1 year of the execution date of the security agreement, or within such other period as provided in a State supplement. FmHA or its successor agency under Public Law 103–354 after-acquired security interests take priority over other security interests perfected after the FmHA or its successor agency under Public Law 103–354 financing statement is filed, except as stated in § 1941.60.

(c) *State supplements.* A State supplement concerning future advance and after-acquired property clauses will set forth requirements for filing or recording security instruments in that State. This will assist County Supervisors in other States who request such information in accordance with § 1941.57(g). A State supplement will also be issued when OGC determines that it is needed to reflect any amendments made to a State’s UCC.

§§ 1941.80–1941.83 [Reserved]

§ 1941.84 Title clearance and closing requirements.

(a) For loans over \$10,000, title clearance is required when real estate is taken as primary security.

(b) For loans of \$10,000 or less, and loans for which real estate is taken as primary security, a certification of ownership and verification of equity in real estate is required. Certification of ownership may be in the form of a notarized affidavit which is signed by the